

Application No.: 10/058,173
Amendment Dated: March 30, 2006
Reply to Office Action of: December 30, 2005

REMARKS

Claims 46-61 and 70-76 are pending in the application. Applicants have canceled claims 62-69 without prejudice. Applicants have amended claims 46, 55 and 70. In view of the foregoing amendments and remarks urged here, Applicant respectfully requests that the Examiner reconsider all outstanding rejections.

Claim Rejections—35 U.S.C. §103

The Examiner has rejected claims 46-76 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0083160 to Middleton ("Middleton") in view of U.S. Patent Application Publication No. 2002/0069263 to Sears et al. ("Sears").

Applicants have canceled claims 62-69. Applicants have amended claims 46, 55 and 70 to more particularly point out and distinctly claim the subject matter regarded as the invention. In particular, claim 46 has been amended to recite that the invention is directed to a method of distributing software between handheld computer systems where the method comprises demarking files on a first handheld computer system by a first user so that the demarked files are available for downloading by a second handheld computer system by a second user. Claim 55 has been amended to recite that the handheld computer system is configured to store demarked files which are demarked by a first user and the demarked files are available for downloading to a second handheld computer system by a second user. Similarly, claim 70 has been amended to recite that the handheld computer system includes means for storing demarked files where the demarked files are demarked by a first user and available for downloading to a second handheld computer system by a second user.

The present invention, as recited in amended claims 46, 55 and 70, is directed to a method of distributing software between handheld computer systems. A problem recognized by the inventors is the particular problem of distribution of software between handheld computer systems where the software files are small and not practical to be distributed by conventional distribution methods. The invention proposes a first user demarking software files for automatic transfer to other handheld computer systems. A second handheld computer system then receives summary information associated with the demarked software files so that the second user has the

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option of transferring the full software file through conventional means after viewing the summary information. The summary information may be, for example, information created by the creator of the software or by the first user or a user rating of the software

The Examiner's base reference, Middleton, is fundamentally different. Middleton is directed to secondary storage location management of programs and data. Middleton is directed to infrequently used programming and data stored in an automated secondary storage location within an accessible network of the portable computing device so that the main memory of a particular portable computing device is not filled up with applications and data. Middleton teaches using a memory card or PCMCIA card as a secondary storage location from which programs and data may be loaded into main memory (see Middleton paragraph 13). In the instant Office Action, it seems that the Examiner points to Middleton's secondary storage location as equivalent to the first handheld computer system. However, the elements are fundamentally different. First, Middleton's secondary storage location is a simple auxiliary memory and therefore cannot be considered the equivalent of a handheld computer system. Second, Middleton's secondary storage location is intended to be available to the portable computing device substantially all the time. The handheld computing system of the present invention is intended for even transfer of application files when strangers meet at any location. Therefore, Middleton fails to teach or suggest a first or second handheld computer system associated with a first and second user and a method of software distribution therebetween.

The shortcomings of Middleton are not overcome by Sears. Sears is directed to a java implementation over a network of mobile communication devices. Sears does not teach or suggest a first or second handheld computer system associated with a first and second user and a method of software distribution therebetween.

Applicants respectfully submit that a combination of Middleton and Sears does not render the present invention unpatentable. Applicants submit that a person of ordinary skill in the art when combining the teachings of Middleton and Sears would implement the secondary storage solution of Middleton and implement it over a network environment of portable computing devices to implement the java implementation of Sears. Such a combination is not the same as the present invention.

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Therefore, Applicants respectfully submits that a combination of Middleton and Sears does not teach or suggest every claimed feature of the invention. The prior art reference (or references) must teach or suggest all of the claim limitations. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991). Since a prima facie case of obviousness has not been set forth, Applicant respectfully submits that independent claims 46, 55 and 70 are allowable over the cited references. Claims 47-54, 56-61 and 71-76, by their dependency on claims 46, 55 and 70 respectively, are similarly allowable. Early notice to that effect is earnestly solicited.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections. The Examiner is invited to telephone the undersigned representative if an interview might expedite allowance of this application.

Respectfully submitted,

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